

## *Chesapeake Bay Preservation Act Amendments - Stakeholder Meeting Process*

### **Summary Notes from Fourth Stakeholders Meeting 12-2-10**

Tuesday, December 2, 2010, 6:30 p.m. – 9:30 p.m. at Board of Supervisors Meeting Room, Leesburg

- 1. Welcome/Introduction of Participants & County Officials** – Facilitator opened the meeting at 6:35 p.m.
- 2. Agenda Overview** – Facilitator reviewed the agenda, the basic process requirements set by the Board of Supervisors, and the ground rules that were affirmed by the Stakeholder Representatives. Some discussion was had about attendance and schedule.
- 3. Review Results of First Three Meetings** – Facilitator reviewed highlights of first three meetings.
- 4. Review Issues Matrix** – Stakeholders continued reviewing the Issues identified earlier.

The Facilitator presented a proposed package of solutions to the stakeholders to consider regarding two major issues and their related sub-issues, based on the discussion from the previous meeting. The two major issues were RPA Mapping and Buffer Width.

#### **RPA Map**

##### **General Questions/Comments:**

- Why not just use the USGS map (“blue-line map”)?
- TMDL report (WIP) from the state just came out this week – why not wait?
- State will only pay for 35-foot buffers associated with perennial streams on the USGS blue-line map.

##### **Specific Questions about the Proposed Solutions** *[staff responses in italics]:*

Item 1.e: Retain existing RPA – What does this mean? *[The map with updates presented to the Board of Supervisors on 9/21/10.]*

Item 1.b: Delineations are required at a specified threshold of significant land disturbance –

- Do we assume anywhere in the county? *[Yes.]*
- Does it depend on when it’s done (time of year)? What recourse if one disagrees with the finding? Appeal? *[Section 1222.29 provides that landowners can approach the County with a potential error to get it corrected. No fee established for this service; maybe never a fee. Ultimate appeal would be to the Chesapeake Review Board – within 30 days.]*  
Stakeholders responded that there was a perennial stream protocol and that the presence of flow was only one of multiple criteria for the designation of a perennial stream.

Items 1.b and 1.d: Could these be the same, de facto? *[Yes.]*

**Stakeholders then discussed the proposed solutions and identified three basic options**

**for using the RPA Map, and measured the level of support among those present for each option** (22 stakeholders were at the table):

1. Use existing RPA map of perennial streams with no additional delineations (Option #5). (14 in favor)
2. Use existing RPA map of perennial streams with delineations to expand or contract it. (5 in favor)
3. Drainage area based map – “over-mapping” with delineations to reduce the area. (1 in favor)

Having found the most favor with the use of the existing RPA map with no additional delineations, the stakeholders then identified two basic map options, and discussed them.

1. Draft RPA Map (the “green line”) – includes approximately 1,000 miles or 2/3 of perennial streams in the County.
2. USGS Map (“blue line” map) – includes approximately 500 miles or 1/3 of perennial streams in the County.

**Comments and questions about map options included:**

- Could there be an “optional” delineation to correct errors? *[Yes.]*
- We need to use the best science available.
- Is the County RPA map more accurate than the USGS map? *[Yes.]*

**Stakeholders then measured the level of support for each of the two map options:**

1. Draft RPA Map (the “green line”) (15 in favor)
2. USGS Map (“blue line” map) (4 in favor)

**Buffer Width/Exemptions/Waivers**

**Questions/Comments:**

- 3.g. - Exempt Approved Drainfields –  
“Approved” drainfields means “permitted” but not built? *[Yes, inclusive of existing ones.]*
- 3.h – Require Minor WQIA rather than major –  
What’s the difference between “major” and “minor”? *[Mainly complexity and therefore cost to the applicant. Major assessments require an engineered plan and tree cover inventory.]*
- 3.e. - Exempt private roads and driveways in the RPA –  
What does this mean? *[Private roads and drives would be exempt according to the same criteria as public roads.]*
- 3.b. and c. - Allow disturbances up to 2,500 sf /5,000 sf in the Landward 50-feet by  
*Administrative Waiver* on lots that contain 50% or less RPA –

Potential conflict/confusion with these percentages. What size lots do these pertain to?

- Why not a 35-foot buffer, because sometimes they work better, and State and Feds only look at 35-foot buffers for credit under the TMDL?
- Minimum 100-foot buffer is outlined in the Chesapeake Bay Preservation Act.
- 100-foot buffer is a huge issue for the agricultural people - where are the exemptions for agriculture? *[They are included – allow reductions to 25 feet with the implementation of agricultural Best Management Practices.]*
- Are there exemptions for stormwater outfalls? *[Yes, permitted with a Water Quality Impact Assessment to assess water quality impacts and provide mitigation.]*
- You can exempt urban areas, agriculture, etc., under the Bay Act.
- The list of exemptions needs to be clarified – list all the details of current and proposed exemptions – ag, private roads, etc. - “I’m all in for a 100-foot buffer if I know exactly what the exemptions are, and they are reasonable.”

Stakeholders then discussed buffer issues and options. Comments included:

- The 100-foot buffer from Ches Bay regulations was originally aimed at Tidewater areas.
- More is better in terms of buffer function.
- Steeper topography needs more buffer.
- The Board-appointed Water Resources Technical Advisory Committee endorsed a 100-foot buffer.
- Buffers are not just for filtration.
- State has never studied the Piedmont areas for what kind of buffer is effective, which could lead to potential litigation.

**Stakeholders settled on five basic options for establishing buffer requirements, and measured their level of support:**

1. 100 foot buffer (as proposed in current draft amendments) with clear exemptions (9 in favor)
2. 35 foot buffer with limited exemptions (7 in favor)
3. A variable, “performance-based” standard (0 in favor)
4. 50 foot buffer with limited exemptions (3 in favor)
5. 175 foot buffer with some exemptions, but no less than 125 feet. (1 in favor)

**Other questions:**

- What about the state’s Phase 1 Watershed Implementation Plan (WIP)?
- HOAs are not well-represented [in numbers].
- What about the state’s Urban Development Area legislation?

**5. Review Results of Meeting** – A brief recap was discussed and reminder of continuation of the meeting to December 7.

**6. Adjourn** – Facilitator adjourned the meeting at 9:30 pm.

***Note Schedule of remaining meetings:***

Tuesday, December 7 - 6:30 p.m. to 9:30 p.m. - BOS meeting room

Thursday, December 9 - 6:30 p.m. to 9:30 p.m. - BOS meeting room

Tuesday, December 14 - 6:30 p.m. to 9:30 p.m. - BOS meeting room